



DYANNE C. REESE, CMC

Office of the Clerk of Council Savannah, Georgia

I, Tanet U. Taharka, Acting Clerk of Council for the Mayor and Aldermen of the City of Savannah, do hereby certify the attached ordinance to be a true copy of the Official Proceedings of the Mayor and Aldermen of August 14, 2008 as adopted and approved by the Mayor and Aldermen.

Signed and sealed:

A handwritten signature in dark ink, appearing to read "Tanet U. Taharka", is written over a horizontal line.

Tanet U. Taharka
Acting Clerk of Council

November 24, 2008

Date



Ordinance read for the first time in Council on July 31, 2008, read a second time August 14, 2008, placed upon its passage, adopted and approved upon motion of Alderman Thomas, seconded by Alderman Felser and carried.

AN ORDINANCE
TO BE ENTITLED

AN ORDINANCE TO AMEND PART 4. PUBLIC SERVICES.
CHAPTER 8. OF THE CODE OF THE CITY OF SAVANNAH,
GEORGIA (2003) BY ADDING THERETO ARTICLE B. PROPERTY
MAINTENANCE; TO REPEAL ALL ORDINANCES IN CONFLICT
HEREWITH AND FOR OTHER PURPOSES.

WHEREAS, the existence in a community of real property which is maintained in a deteriorating, blighted condition increases the burdens of state and local government by increasing the need for governmental services including, but not limited to, social services, public safety services, and code enforcement services; and

WHEREAS, O.C.G.A. section 8-2-25(a) provides for state-wide application of certain state minimum standard codes and municipal enforcement of such codes; and

WHEREAS, O.C.G.A. section 8-2-25(b) and (c) provide for the municipal adoption and enforcement of the state minimum standard codes and allow municipalities to adopt more stringent codes based on public safety factors and to provide for both civil and criminal penalties for violations thereof; and

WHEREAS, O.C.G.A. section 8-2-26 provides for the adoption of any reasonable provisions for the enforcement of the state minimum standard codes and provides for inspections of buildings or similar structures to ensure compliance with the state minimum standard codes; and

WHEREAS, the City of Savannah has adopted all such minimum codes with amendments thereto as approved by the State Department of Community Affairs; and

WHEREAS, by Ordinance adopted and approved December 18, 2003, the Mayor and Aldermen of the City of Savannah adopted with certain amendments the International Property Maintenance Code, 2003 Edition; and

WHEREAS, it is the intent that these codes be construed to secure their expressed purpose, which is to ensure public health, safety and welfare insofar as they are affected by the continued occupancy and maintenance of structures and premises. Existing structures and premises that do not comply with the provisions of these codes shall be altered or repaired to provide a minimum level of health and safety as required herein. Repairs, alterations, additions to, and change of occupancy in existing buildings shall be made in compliance with the adopted codes; and

WHEREAS, pursuant to O.C.G.A. section 36-61-1 et seq., the Mayor and Aldermen have designated certain areas of the City as urban redevelopment areas; and

WHEREAS, as provided in O.C.G.A. section 36-61-3, the Mayor and Aldermen have made the legislative finding that deteriorated housing constitutes a serious and growing menace injurious to the public health, safety, morals, and welfare of the residents of the City and contributes substantially and increasingly to the spread of disease and crime, constitutes an economic and social liability, substantially impairs or arrests sound growth of the City, retards the provision of housing accommodations, aggravates traffic problems, and substantially impairs or arrests the elimination of traffic hazards and the improvement of traffic facilities; and that the prevention and elimination of slums and deteriorating housing is a matter of state and municipal policy and concern, in order that the state and its municipalities and counties shall not continue to be endangered by areas which are local centers of disease, promote juvenile delinquency, and, while contributing little to the tax income of the state and its municipalities and counties, requires excessive services; and

WHEREAS, the Mayor and Aldermen recognize the inherent dangers of residing in buildings or structures that do not meet the state minimum standard codes, and further recognize a lessee's or tenant's right to privacy; and

WHEREAS, the public policy of this State as evidenced by the adopted Statutes of the General Assembly (O.C.G.A. section 44-7-13) and the case law interpreting them that landlords, owners, lessors, or agent of landlords, owners, or lessors have the duty to keep rental premises in repair; and

WHEREAS, the Mayor and Aldermen have determined that protection of the health, safety, and welfare of the citizens of Savannah requires that property that is being rented or leased meet the state minimum standard codes; and

WHEREAS, the Georgia Supreme Court (251 Ga. 347) has held that a city in accord with its legitimate interest of promoting and protecting public safety may impose civil penalties for violations; and

WHEREAS, O.C.G.A. Title 36, Chapter 74 provides for the creation of an alternate Code Enforcement System which gives code enforcement boards the authority to hold hearings and to impose administrative fines and other noncriminal penalties to provide an additional method of enforcing any codes and ordinances where a pending or repeated violation continues to exist; and

WHEREAS, O.C.G.A. section 36-74-25 provides for orders having the force of law to command whatever steps are necessary to bring a violation into compliance; and

WHEREAS, O.C.G.A. section 36-74-26 provides for administrative fines as set forth in said section as follows:

(b)(1) An administrative fine imposed pursuant to this code section for a violation involving the health or safety of a third party shall not exceed \$1,000.00 per day.

(2) An administrative fine imposed pursuant to this code section for a violation that is not a violation involving the health or safety of a third party shall not exceed a total of \$1,000.00.

and further provides for a certified copy of such order imposing an administrative fine be recorded in the public records of the county and shall constitute a lien against the land on which the violation exists and upon any real and personal property owned by the violator. O.C.G.A. section 36-74-26(c).

NOW, THEREFORE, to accomplish the foregoing, the following Ordinance is hereby adopted:

BE IT ORDAINED by The Mayor and Aldermen of the City of Savannah, Georgia, in a regular meeting of Council assembled and pursuant to lawful authority thereof:

SECTION 1: Every person, whether owner, agent or tenant, owning, holding, or occupying property in the city shall, at all times, maintain the property, whether a vacant lot or otherwise, in a clean and sanitary condition. No person shall occupy as owner-occupant nor let nor sub-let to another for occupancy any dwelling or dwelling unit designed or intended to be used for the purpose of living, sleeping, cooking or eating therein, which does not comply with the adopted State Codes regulating and governing the conditions and maintenance of all property.

SECTION 2: DEFINITIONS

Rental Housing: is any property which contains one or more dwelling units that are not homeowner occupied. The property may or may not be occupied with a tenant. Further, the owner of the property has or is receiving compensation for the use of the property. Such properties include, but are not limited to, single units, duplexes, triplexes, quadriplexes, rowhouses, multi-family housing, and boarding houses, but shall not include rental properties subject to the Hotel-Motel Tax.

Derelict Rental Property: is any rental property for which blight and nuisances are documented by the code official and for which an administrative order finds present one or more of the following conditions that may or may not be readily visible from the street or the exterior of the property: 1) One or more property maintenance, sanitary, or building code violations; 2) Any criminal activity on the property which violates the criminal laws of the State of Georgia and which contributes to the creation of blight in a neighborhood; 3) Utility service (electricity, water, and/or sewer) that has been disconnected for more than 60 consecutive days as verified by the utility provider; or 4) any violations involving the health and safety of a third party.

Chronically Derelict Rental Property: is a property for which a documented "Derelict" condition persists for more than 60 days or that two or more such documented findings are made within a 24 month period.

Hearing Officer: An administrative officer appointed by the City Manager to determine 1) if a property is a derelict property or a "Chronically Derelict Property" as defined by this ordinance, 2) to impose such sanctions, fines, and penalties as are appropriate, but do not exceed the maximum penalty as provided by this Ordinance; and 3) establish the necessary actions that must be taken by the property owner and the time frame for completing said actions to bring the property into full compliance with the minimum standards, and 4) terminate the status of "Chronic Dereliction" after all previously determined violations of this Ordinance by the hearing officer have been

brought into compliance. Appeals of a decision of the hearing officer shall be to the Property Maintenance Code Enforcement Board.

Property Maintenance Code Enforcement Board: A Code Enforcement Board created pursuant to the Local Government Code Enforcement Boards Act, O.C.G.A. section 36-74-1 et seq., and the International Property Maintenance Code, 2003 Edition.

Violation involving the health or safety of a third party: means a violation that creates a legitimate concern for the health and safety of a third-party occupant of a dwelling place or that creates an immediate and substantial danger to the environment. O.C.G.A. section 36-74-21(6)

Certificate of Occupancy: as defined in the Building Code.

SECTION 3:

(a). Occupancy of sub-standard units: No person shall occupy as owner-occupant, or let to another for occupancy, any vacant dwelling, dwelling unit, apartment or any space designed or intended to be used for the purpose of living, sleeping, cooking or eating therein which does not meet the requirements of the adopted codes for a Certificate of Occupancy. A Certificate of Occupancy may be issued by the building official or upon the certificate of a qualified building professional as approved by the building official. Should the building official determine that further work is necessary to comply with the minimum standards as set forth in the Codes, then such owner shall submit a reasonable plan for completion of such work, and if such plan is not completed as required, then notice of violation shall be given by a code enforcement official as stated in the Code for a hearing in the Recorder's Court of Chatham County or an Administrative Hearing before a hearing officer as provided for herein or the Code Enforcement Board as provided in the property maintenance code and in Title 36, Chapter 74 O.C.G.A. provided, however, that said code official shall not pursue a specific instance of an alleged violation of an ordinance against one violator before both a code enforcement board and a magistrate, municipal, or other court authorized to hear ordinance violations (O.C.G.A. section 36-74-30(a), the Recorders Court of Chatham County being such a Court.

(b). When the code official determines that there has been a violation of the Code or has grounds to believe that a violation has occurred and issues a notice as provided in the Code stating a deadline for compliance and there is a failure to comply, then the code official may issue subpoenas requiring the occupants, owners, agents or parties in interest to appear in the Recorder's Court of Chatham County for a violation or to respond to a Petition to said Court for the abatement of a nuisance or, in the alternative, may issue a notice for an administrative hearing before a hearing officer as defined herein. Evidence may be presented of:

1. property maintenance violations, including utility cut off and the duration thereof,
2. criminal activity on the premises;
3. violations involving the health and safety of a third party.

Should the hearing officer determine that said property is derelict, then in addition to the sanctions, fines, and penalties provided for herein and in the Code, the hearing officer may require a plan of mitigation of any derelict conditions with a plan to keep the property free from such violations. The Remediation Plan for such property shall include a listing of the defects, photos of the property with current contact information for the property owner or agent responsible for the remediation, and shall be subject to the payment of administrative fees and inspection fees as provided in the Revenue Ordinance and shall obtain all proper permits and comply with the building codes and all technical codes. Upon compliance the hearing officer may remove the derelict status.

- (c). Chronically Derelict Rental Property. Should the code official determine that a property is in a chronically derelict condition as defined herein, the alleged violations not having been pursued before the Code Enforcement Board and no reasonable plan for correction of such violations having been complied with, then the code official shall after notice subpoena the occupants, owners, or parties at interest to the Recorder's Court of Chatham County for a violation and the abatement of a nuisance. A Citation for an existing violation may be issued without prior written notice. A property owner may be served with such Citation and Notice to Abate a Nuisance at the address shown on the ad valorem tax records. The costs of any such abatement or the correction of Code violations shall be a lien on the property and collectable as provided for other such liens in the City Code. In addition to such costs and charges, each day such a violation continues after notice has been served, shall be deemed a separate offense and subject to the penalties as provided in the City Code, or in the alternative enforcement proceedings before the Property Maintenance Code Enforcement Board may be pursued with a hearing scheduled as provided in O.C.G.A. section 36-74-23. At the conclusion of the hearing as provided for therein, the Enforcement Board shall issue findings of fact based upon the evidence presented and conclusions of law and issue its Order as provided in O. C. G. A section 36-74-25 having the force of law commanding whatever steps are necessary to bring a violation into compliance.

SECTION 4:

Administrative fines; public record:

- (a) The Enforcement Board, upon notification by the code official that an order of the enforcement board has not been complied with by the set time may order the violator to pay an administrative fine in an amount specified in this section and as authorized by O.C.G.A. Section 36-74-26.
- (b)(1) An administrative fine imposed pursuant to this Code section for a violation involving the health or safety of a third party shall not exceed \$1,000.00 per day.

(2) An administrative fine imposed pursuant to this section for a violation that is not a violation involving the health or safety of a third party shall not exceed a total of \$1,000.00.

(3) In determining the amount of the fine, if any, the enforcement board shall consider the following factors:

(A) The gravity of the violation;

(B) Any actions taken by the violator to correct the violation; and

(C) Any previous violations committed by the violator.

(4) An enforcement board may reduce a fine imposed pursuant to this section.

(c) A certified copy of an order imposing an administrative fine may be recorded in the public records of the county and thereafter shall constitute a lien against the land on which the violation exists and upon any real or personal property owned by the violator.

Appeals of a final administrative order of the property maintenance code enforcement board shall be as provided in Title 36, Chapter 74 of O.C.G.A. and the property maintenance code.

SECTION 5: All ordinances or parts of ordinances in conflict herewith are hereby repealed.

ADOPTED AND APPROVED: August 14, 2008